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MAIL

Paper No. 9

Jeffrey E Kubiak  
Howrey Simon Arnold & White  
750 Bering Drive  
Houston TX 77057

MAY 18 2004

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

In re Application of  
Jae Sung Lee  
Application No. 09/980,479  
Filed: April 19, 2002  
For: **OPTICAL CABLE CLOSURE  
MAINTENANCE SYSTEM**

DECISION ON PETITION  
TO WITHDRAW HOLDING OF  
ABANDONMENT

This is a decision on the petition filed March 24, 2004 which is treated as a Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The petition is **GRANTED**.

The application was abandoned for failure to respond in a timely and effective manner to the Office Action mailed August 8, 2003. A Notice of Abandonment was mailed on March 19, 2004.

Petitioner asserts that a proper response was timely filed on November 10, 2003 (which was within the shortened statutory period of three months because November 8 was a Saturday). In support of the petition, petitioner has submitted a copy of the applicant's response, including a new oath signed by the applicant, along with a copy of a date-stamped post card receipt evidencing receipt of the response and the new oath, within the United States Patent & Trademark Office on November 10, 2003.

The original correspondence filed was not matched with the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center's technical support staff for entry of the amendment and the new oath, submitted with the petition. From there, the application file will be forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost  
Special Program Examiner  
Technology Center 2600  
Communications